

§ 70.608

is available to submit, relating to the quantities and identities of the liquors, on which duty has been paid or tax has been paid or determined, that were on hand at the time of the disaster or other specified cause of loss and alleged to have been lost, made unmarketable, or condemned as a result of it.

(b) If the claim is for refund of duty, the claimant shall furnish, if possible:

- (1) The customs number;
- (2) The date of entry; and
- (3) The name of the port of entry.

§ 70.608 Action on claims.

The regional director (compliance) shall date stamp and examine each claim filed under this subpart and will determine the validity of the claim. Claims and supporting data involving customs duties will be forwarded to the Commissioner of Customs with a summary statement by the regional director (compliance) regarding his or her findings.

DESTRUCTION OF LIQUORS

§ 70.609 Supervision.

When allowance has been made under this subpart for the tax and/or duty on liquors condemned by a duly authorized official or made unmarketable, the liquors shall be destroyed by suitable means under supervision satisfactory to the regional director (compliance), unless the liquors were previously destroyed under supervision satisfactory to the regional director (compliance). The Commissioner of Customs will notify the regional director (compliance) as to allowance under this subpart of claims for duty on unmarketable or condemned liquors.

PENALTIES

§ 70.610 Penalties.

(a) Penalties are provided in 26 U.S.C. 7206 for making any false or fraudulent statement under the penalties of perjury in support of any claim.

(b) Penalties are provided in 26 U.S.C. 7207 for filing any false or fraudulent document under this subpart.

(c) All laws and regulations, including penalties, which apply to internal revenue taxes on liquors shall, when appropriate, apply to payments made

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under this subpart the same as if the payments were actual refunds of internal taxes on liquors.

Subpart H—Rules, Regulations and Forms

§ 70.701 Rules and regulations.

(a) *Formulation.* (1) Alcohol, tobacco, firearms, and explosives rules take various forms. The most important rules are issued as Treasury decisions, prescribed by the Director, and approved by the Secretary. Other rules may be issued over the signature of the Director or the signature of any other official to whom authority has been delegated. The channeling of rules varies with the circumstances. Treasury decisions are prepared in the Office of Compliance Operations and reviewed in the Office of Chief Counsel, Bureau of Alcohol, Tobacco and Firearms. After approval by the Director, Treasury decisions are forwarded to the Secretary for further consideration and final approval.

(2) Where required by 5 U.S.C. 553, the Director publishes in the FEDERAL REGISTER general notice of proposed rules unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Notice may also be published in the FEDERAL REGISTER in such other instances as may be desirable. This notice includes (i) a statement of the time, place, and nature of public rulemaking proceedings; (ii) reference to the authority under which the rule is proposed; and (iii) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Interested persons may participate in the rulemaking by submitting written data, views, or arguments. Persons may also submit requests for a public hearing. However, the Bureau reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

(3) If the Bureau determines that the public good will be served thereby, it may hold a public hearing for discussion of the issues raised by the proposed regulations. Such a hearing is announced by a notice in the FEDERAL REGISTER, stating the time and place

where the hearing is to be held. The following rules govern the conduct of the public hearing only if incorporated by reference in the notice announcing the hearing:

(i) A person wishing to make oral comments at a public hearing shall submit, within the time prescribed in the notice of hearing, an outline of the topics he wishes to discuss, and the time he wishes to devote to each topic. Ordinarily, a period of 10 minutes is the time allotted to each person for making his oral comments.

(ii) A person making oral comments should be prepared to answer questions not only on the topics listed in his outline but also on matters relating to any written comments which he has submitted.

(iii) At the conclusion of the presentation of comments of persons listed in the agenda, to the extent time permits, other comments will be received.

(iv) Written comments submitted prior to the hearing shall be available at the hearing for inspection. Any request for copies of such written comments is treated as a request for records under 27 CFR 71.26(h).

(v) To the extent resources permit, the public hearings to which this paragraph applies may be transcribed.

(vi) In unusual circumstances or for good cause shown, the application of rules contained in this paragraph may be waived.

(b) *Comments on proposed rules.* Interested persons may submit data, views, or arguments with respect to a notice of proposed rulemaking published pursuant to 5 U.S.C. 553. Procedures are provided in § 71.26(h) for members of the public to inspect and obtain copies of written comments submitted in response to proposed rules. All such comments are open in their entirety to public inspection. Therefore, the Bureau does not recognize any designation of material in comments as confidential or not to be disclosed, and any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in his comments. The name of any person submitting comments or requesting a public hearing, the issues which may be discussed at the hearing, and outlines relating to the hearing are

open to public disclosure. (See paragraph (a)(3) of this section for rules relating to hearing outlines.)

(c) *Petition to change rules.* Interested persons may petition for the issuance, amendment, or repeal of a rule. A petition for the issuance of a rule shall identify the section or sections of law involved; and a petition for the amendment or repeal of a rule shall set forth the section or sections of the regulations involved. The petition shall set forth the reasons for the requested action. Such petitions shall be given careful consideration, and the petitioner shall be advised of the action taken thereon. Petitions shall be addressed to the Director, Washington, DC 20226. Attention: Compliance Operations.

(d) *Publication of rules and regulations*—(1) *General.* All Bureau of Alcohol, Tobacco and Firearms regulations and amendments thereto are published as Treasury Decisions which appear in the FEDERAL REGISTER, the Code of Federal Regulations, and the quarterly Alcohol, Tobacco and Firearms (ATF) Bulletin. The ATF Bulletin is the authoritative instrument of the Bureau for announcing Treasury decisions, legislation, administrative matters, and other items of general interest. The Bulletin incorporates, into one publication, all matters of the Bureau which are of public record. It is the policy of the Bureau to publish in the Bulletin all substantive rulings necessary to promote a uniform application of all laws administered by the Bureau as well as rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin (including those published prior to July 1, 1972, in the Internal Revenue Bulletin). Procedures relating solely to matters of internal management are not published; however, regulations appearing in internal management documents and statements of internal practices and procedures that affect the rights and duties of the public are published. Rulings and procedures reported in the Bulletin do not have the force and effect of Department of the Treasury Regulations, but they may be used as precedents. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court

decisions, rulings, and procedures must be considered. Concerned parties are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are substantially the same. The Bulletin is published quarterly and may be obtained, on a subscription basis, from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(2) *Objectives and standards for publication of ATF Rulings and ATF Procedures in the Alcohol, Tobacco and Firearms Bulletin.* (i)(A) An “ATF Ruling” is an official interpretation by the Bureau that has been published in the Bulletin for the information and guidance of taxpayers, Bureau officials, and others concerned. ATF Rulings represent the conclusions of the Bureau on the application of the law to the entire state of facts involved. In those that are based on positions taken in rulings to industry members or technical advice to Bureau field offices, identifying details and confidential information are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements concerning disclosure of information obtained from the public.

(B) An “ATF Procedure” is a statement of procedure that affects the rights or duties of taxpayers or other members of the public under law and regulations administered by the Bureau or information that, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge. ATF Procedures establish methods for performing operations in compliance with the requirements of law and regulations. It is Bureau practice to publish as much of the internal management document or communication as is necessary for an understanding of the procedure. ATF Procedures may also be based on internal management documents which should be a matter of public knowledge even though not necessarily affecting the rights or duties of the public.

(ii) It is the policy of the Bureau to publish in the Bulletin all rulings and other communications to members of the public or to Bureau field offices involving substantive law, procedures affecting taxpayer’s rights or duties, or

industry regulations, except those involving:

(A) Issues specifically and clearly covered by statute or regulations;

(B) Issues specifically covered by rulings, procedures, opinions, or court decisions previously published in the Bulletin;

(C) Issues not likely to arise again because of unique or specific facts;

(D) Determinations of fact rather than interpretations of law;

(E) Acceptability under the law and regulations of containers, labels, and advertising involving alcoholic beverages;

(F) Tobacco operations, such as the disposition of abandoned, seized, or condemned tobacco products;

(G) Informers and informers’ rewards; or

(H) Disclosure of secret formulas, processes, business practices, and other similar information.

(iii)(A) It is the practice of the Bureau to publish as much of the ruling or communication as is necessary for an understanding of the position stated. However, in order to prevent unwarranted invasions of personal privacy and to comply with statutory provisions, such as 18 U.S.C. 1905 and 26 U.S.C 6103 and 7213, dealing with disclosure of information obtained from members of the public, identifying details, including the names and addresses of persons involved, and information of a confidential nature are deleted from the ruling.

(B) ATF Rulings published in the Bulletin do not have the force and effect of Department of the Treasury Regulations (including amendatory Treasury decisions) but are published to provide precedents to be used in the disposition of other cases, and may be cited and relied upon for that purpose. No unpublished ruling or decision may be relied on, used, or cited by any officer or employee of the Bureau as a precedent in the disposition of other cases.

(C) Concerned persons generally may rely upon ATF Rulings published in the Bulletin in determining the Bureau treatment of their own transactions and need not request specific rulings applying the principles of a published

ATF Ruling to the facts of their particular cases. However, since each ATF Ruling represents the conclusion of the Bureau as to the application of the law to the entire state of facts involved, taxpayers, Bureau personnel, and others concerned are cautioned against reaching the same conclusion in other cases unless the facts and circumstances are substantially the same. They should consider the effect of subsequent legislation, regulations, court decisions and ATF Rulings.

(D) Comments and suggestions from taxpayers or other concerned persons on ATF Rulings being prepared for publication in the Bulletin may be solicited, if justified by special circumstances. Conferences on ATF Rulings being prepared for publication will not be granted except where the Bureau determines that such action is justified by special circumstances.

(iv)(A) The Associate Director (Compliance Operations) is responsible for administering the program for the publication of ATF Rulings and ATF Procedures in the Bulletin including the standards for style and format.

(B) In accordance with the standards set forth in paragraph (d)(2)(ii) of this section, each Assistant Director is responsible for the preparation and appropriate referral for publication of ATF Rulings reflecting interpretations of substantive law made by his office and communicated in writing to members of the public or field offices. In this connection, the Chief Counsel is responsible for the referral to the appropriate Assistant Director, for consideration for publication as ATF rulings, of interpretations of substantive law made by his office.

(C) In accordance with the standards set forth in paragraph (d)(2)(ii) of this section, the Assistant Directors and the Chief Counsel are responsible for determining whether procedures established by an office under their jurisdiction should be published as ATF Procedures and for the initiation, content, and appropriate referral for publication of such ATF Procedures.

[T.D. ATF-47, 43 FR 10687, Mar. 15, 1978, as amended by T.D. ATF-201, 50 FR 12533, Mar. 29, 1985; T.D. ATF-249, 52 FR 5962, Feb. 27, 1987; Redesignated and amended by T.D. ATF-378, 61 FR 29955, June 13, 1996]

§ 70.702 Forms and instructions.

(a) *Tax return forms and instructions.* Tax forms and instructions are developed by the Bureau to explain the requirements of Chapters 32, 51, 52, and 53 of Title 26 of the United States Code or regulations issued thereunder, and are issued for the assistance of taxpayers in exercising their rights and discharging their duties under such laws and regulations. The tax return forms are the instruments through which taxes are collected.

(b) *Other forms and instructions.* The Bureau provides other necessary or appropriate forms for assisting the public in complying with the technical requirements of the laws and regulations administered by the Bureau. The material contained in the forms and instructions, and the arrangement thereof, is carefully considered and is designed to lead the preparer step-by-step through an orderly accumulation of data to an accurate report of the information required.

(c) *Procurement of forms and instructions.* Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

[T.D. ATF-47, 43 FR 10687, Mar. 15, 1978, as amended by T.D. ATF-92, 46 FR 46914, Sept. 23, 1981; T.D. ATF-249, 52 FR 5962, Feb. 27, 1987; T.D. 372, 61 FR 20724, May 8, 1996. Redesignated and amended by T.D. ATF-378, 61 FR 29955, June 13, 1996]

Subpart I—Disclosure

§ 70.801 Publicity of information.

For information relating to the disclosure of records that is not contained in this Subpart I, see 31 CFR Part 1 and the Appendix of that Part relating to the Bureau of Alcohol, Tobacco and Firearms. Direct further questions to the Chief, Disclosure Branch, Washington, DC 20226, (202) 927-8480.

[T.D. ATF-378, 61 FR 29955, June 13, 1996]

§ 70.802 Rules for disclosure of certain specified matters.

(a) *Accepted offers in compromise.* For each offer in compromise submitted and accepted pursuant to 26 U.S.C. 7122 in any case arising under Chapter 32 (relating to firearms and ammunition